

R E M A R K S

A Request for Continued Examination accompanies this paper for the purpose of removing the finality of the pending Office Action. It is accordingly submitted that the above-noted claim amendments should be entered and considered on the merits.

Claims 2-10, 15, 17-19, 21 and 24 are now presented for consideration in the application, with Claims 11-14, 16 and 22-23 having been withdrawn from consideration. Claims 2, 21 and 24 have been amended in this paper. Claims 2, 21 and 24 are the independent claims herein. No new matter has been added. Reconsideration and further examination are respectfully requested.

Claim Rejections – 35 USC § 101

Claims 2-10 and 17-19 are rejected under 35 U.S.C. 101 as allegedly directed to non-statutory subject matter.

Applicant respectfully traverses this rejection for the reasons that are set forth below.

Contrary to the Examiner's assertion, the recitation in claim 1 that the determining steps and the calculating steps "are performed by a computer" is not analogous to a preamble, and does much more than stating a purpose or intended use. A person of ordinary skill in the art would expect that those steps would be performed by a computer, and the claim provision in question confirms this understanding, while positively and substantively modifying the recited claim steps. The claim provision in question does not merely say what the steps are for, but rather specifies a type of apparatus that performs them. As such, the claim limitation "performed by a computer" should be accorded full weight, and should be deemed to render the claim statutory (supposing that the claim were not statutory without such language).

In view of the foregoing points, the Examiner is respectfully urged to drop this rejection.

Claim Rejections – 35 USC § 103

Claims 2-10, 15, 17-19, 21 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Freeman et al. (U.S. Patent Application No. 6,249,775) in view of Wheatworks – (Version History: LoanSpread Financial Calculator, at <http://www.wheatworks.com/versionhistorylscp.htm>).

Applicant now understands that the Examiner interpreted the claim term “credit rating category” broadly enough to read on the factors affecting loan performance, as enumerated at column 8, lines 1-8 in the Freeman reference. Such was not at all applicant’s intention, and in response to this position that the Examiner has taken, applicant has now amended each of the independent claims so as to negative such a broad interpretation of “credit rating category”. Each of the independent claims now specifies that each credit rating category is “denoted by a respective letter grade in a letter grade credit rating system”. Support for this recitation is found, for example, at page 8, line 28 to page 9, line 2 and in Table I (page 10), in the specification of the present application.

With this amendment to the independent claims, the term “credit rating category” can no longer be reasonably read on the factors set forth at col. 8, lines 1-8 of Freeman, and it is accordingly submitted that the pending rejection under § 103 should be reconsidered and withdrawn.¹

The above-remarks apply to each of the independent claims, which are claims 2, 21 and 24. The dependent claims are submitted as patentable on the same basis as their parent independent claims.²

¹ Applicant will also note in passing that the Wheatworks reference is not apposite to the purpose for which it is cited by the Examiner. It appears to applicant that the term “LoanSpread” is merely a product name that is suggestive of a spreadsheet for calculating various loan parameters, and has nothing to do with calculation of a “loan spread” as that term is defined in the present application and is commonly understood (i.e., “the difference between an interest rate paid to investors and a known index”—see page 1, lines 20-21 of the specification of this application).

² Applicant will also venture the following comments with respect to dependent claim 4. In regard to claim 4, the Examiner cites a passage at column 13, lines 11-23 in the Freeman reference. However, it seems to applicant that the cited passage is not pertinent to claim 4, since the passage in question is concerned with assessing differences in quality between groups of loans, and does not mention adding a category size for an additional mortgage loan to a current category size to determine a combined category size, as is actually recited in claim 4.

C O N C L U S I O N

Accordingly, Applicant respectfully requests allowance of the pending claims. If any issues remain, or if the Examiner has any further suggestions for expediting allowance of the present application, the Examiner is kindly invited to contact the undersigned via telephone at (203) 972-3460.

Respectfully submitted,

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